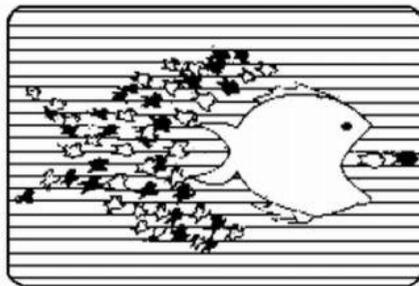


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May 9, 2012

BRITISH COLUMBIA UTILITIES COMMISSION
GENERIC COST OF CAPITAL PROCEEDING EXHIBIT C5-4

Our File: 7501

Ms. Alanna Gillis
Acting Commission Secretary
BC Utilities Commission
6th Floor 900 Howe Street
Vancouver, BC V6Z 2N3

Dear Ms. Gillis:

**Re: British Columbia Utilities Commission
Project No. 3698660 / Commission Order G-20-12
Generic Cost of Capital Proceeding**

BCOAPO et al. provide the following brief submissions regarding the issues of the Allocation of Participant Assistance / Cost Awards, Participant Assistant / Cost Awards Eligibility, and the Draft Regulatory Timetable attached as Appendix D to Order G-50-12.

Allocation of Participant Assistance / Cost Awards

In Appendix A to Order G-50-12, the Commission requested that participants address 2 questions relevant to this topic:

1. What criteria should the Commission use to determine which utility would be affected by a decision arising from the GCOC Proceeding?

BCOAPO submits that there are essentially two groups of affected utilities:

- A. Those who are directly affected because they are regulated by the Commission and their return on capital is affected by decisions in processes like this, and
- B. Others who are not directly affected because they are not regulated and their return on capital is not set by the BCUC but they do purchase power from a regulated utility or utilities whose return on capital is set by the BCUC.

Our clients have found that most utilities easily fall within one of these two categories but note that although BC Hydro reasonably falls under the first category, the alignment is not perfect. BC Hydro's ROE is set by Regulation rather than a BCUC decision but it is still informed by decisions made by the Commission. Also, this process will deal with regulated capital structure and other issues with no direct bearing on BC Hydro.

In our submission, it is the utilities that belong to the first group who are the ones primarily affected by this process and who should share in the associated regulatory costs.

2. Should the Participant Assistance / Cost Awards be allocated on the same basis as that outlined in Commission Order G-5-06? If not, on what other basis should allocation be made?

We have reviewed Commission Order F-5-06 from the Terasen ROE process in which the allocation of PACA costs was discussed.

In the Terasen ROE process, the Applicant utility was held responsible for 50% of the regulatory costs. In this process, Fortis did not initiate the process so while it may still be appropriate to allocate to this utility a greater proportion of the associated costs as it is likely to be the most directly affected, it may be appropriate to modify the percentage somewhat to reflect this change in circumstance.

Our clients support the implementation of an apportionment model in this process that recognizes the unfairness of simply equally sharing the regulatory costs as amongst the directly affected utilities aside from Fortis. An equal share may pose little challenge to a larger utility with many ratepayers to minimize rate impacts while placing a disproportionately large burden on a smaller affected utility's ratepayers.

An apportionment relative to utility size is fairest but the challenge is implementation. Order F-5-06 used the pro-rata GJ sales for 2005 to set the apportionment of costs but we note there is somewhat of a disparity between BC Hydro's large size and its sales volumes as compared with other utilities. However, while energy sales is not a perfect tool with which to apportion responsibility for regulatory costs in this process, each other possible tool we have considered seem to have similar limitations. As a result, BCOAPO supports the allocation methodology used in F-5-06.

Participant Assistance / Cost Awards Eligibility

In this section of Appendix A, the Commission asked for submissions addressing the following questions:

1. Which registered participants intend to make Participant Assistance / Cost Award applications?

Our clients are community groups serving low and fixed income members and British Columbians in general and we, as counsel, work in a not-for-profit law office to represent them before the BC Utilities Commission. Our office has a long-standing tradition of involvement in proceedings before the BCUC, always seeking to contribute meaningfully to the processes by providing our clients' low and fixed income residential ratepayer analysis to the various regulated utility applications. Given our clients' material interests as residential ratepayers of the directly affected utilities in this process, we confirm that we will be applying for a PACA.

2. Which registered participants should plan to join together to share resources including retaining of expert witness(es)?

At this time, we have entered into an agreement with counsel for AMPC and CEC to share resources regarding the retention of an expert witness. This sharing of resources for this purpose is very different than a joining of our three groups as one. We believe this is an effective means of achieving the goal of reducing regulatory cost and burden while maximizing the benefit to our clients without compromising our ability to represent their specific interests and perspectives.

3. If applicable, which registered participants plan to join together?

BCOAPO does not propose to join with another registered participant in this process but recognizes that there may be circumstances in which others may be able to find efficiencies internally and as within the process by doing so without compromising their own individual interests or perspectives. We do not propose to offer an opinion as to where others within the process may find those overlaps.

4. Should utilities, particularly the smaller utilities, be eligible for Participant Assistance / Cost Award funding?

While our clients are unconvinced that utilities should be eligible for PACA funding, they recognize that it is conceivable that a small utility, largely unaffected by the outcome might offer a perspective the Commission finds useful in this process. Should such a small utility elect to apply for a PACA, our clients expect that the PACA Guidelines would be applied, including the provision which indicates that the Commission Panel may consider the participant's ability to participate in such a process absent a cost award.

Ultimately, there must be a balance struck between the value of the participation of those who might offer a valuable perspective and the financial impact of that participation on ratepayers, *particularly in cases where that participation could occur without PACA assistance.*

Regulatory Timetable

BCOAPO does not have any concerns about the regulatory timetable except that it is unclear what is meant by "submissions" when the term is used in conjunction with the filing of evidence by both the affected utilities and interveners. Typically, the utilities and other participants would make final submissions at the end of the process so the undersigned seeks clarification whether there will be an opportunity to do so after IR responses to intervenor evidence are filed.

Sincerely,

BC PUBLIC INTEREST ADVOCACY CENTRE

Original in file signed by:

Leigha Worth
Executive Director
Barrister & Solicitor